

AMENDED IN ASSEMBLY MARCH 26, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 688

Introduced by Assembly Member Gomez

February 25, 2015

An act to amend ~~Section~~ *Sections 17053.95 and 23695* of the Revenue and Taxation Code, relating to taxation, *to take effect immediately, tax levy.*

LEGISLATIVE COUNSEL'S DIGEST

AB 688, as amended, Gomez. ~~Corporate income~~ *Income and corporation taxes: credits: qualified motion pictures.*

The *Personal Income Tax Law and the Corporation Tax Law* ~~allows~~ *allow* various credits against the ~~tax as imposed by that law, taxes imposed by those laws,~~ including a qualified motion picture credit for taxable years beginning on or after January 1, 2016, to be allocated by the California Film Commission on or after July 1, 2015, and before July 1, 2020. Existing law limits the aggregate amount of these new credits to be allocated in each fiscal year to up to \$330 million, and subject to a computation and ranking of applicants based on the jobs ratio, as defined, requires the California Film Commission to allocate credit amounts subject to specified categories of qualified motion pictures, in an amount equal to 20% or 25%, with an additional credit amount available, as specified, for qualified expenditures for the production of a qualified motion picture in California.

~~This bill would make a nonsubstantive change to those provisions.~~ *bill, under the Personal Income Tax Law and the Corporation Tax Law, would extend the requirement to allocate the tax credits an additional year, until July 1, 2021. This bill would also extend the application of*

the limit on the aggregate amount of credits that may be allocated through the 2020–21 fiscal year.

This bill would take effect immediately as a tax levy.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 *SECTION 1. Section 17053.95 of the Revenue and Taxation*
2 *Code is amended to read:*

3 17053.95. (a) (1) For taxable years beginning on or after
4 January 1, 2016, there shall be allowed to a qualified taxpayer a
5 credit against the “net tax,” as defined in Section 17039, subject
6 to a computation and ranking by the California Film Commission
7 in subdivision (g) and the allocation amount categories described
8 in subdivision (i), in an amount equal to 20 percent or 25 percent,
9 whichever is the applicable credit percentage described in
10 paragraph (4), of the qualified expenditures for the production of
11 a qualified motion picture in California. A credit shall not be
12 allowed under this section for any qualified expenditures for the
13 production of a motion picture in California if a credit has been
14 claimed for those same expenditures under Section 17053.85.

15 (2) Except as otherwise provided in this section, the credit shall
16 be allowed for the taxable year in which the California Film
17 Commission issues the credit certificate pursuant to subdivision
18 (g) for the qualified motion picture, but in no instance prior to July
19 1, 2016, and shall be for the applicable percentage of all qualified
20 expenditures paid or incurred by the qualified taxpayer in all
21 taxable years for that qualified motion picture.

22 (3) The amount of the credit allowed to a qualified taxpayer
23 shall be limited to the amount specified in the credit certificate
24 issued to the qualified taxpayer by the California Film Commission
25 pursuant to subdivision (g).

26 (4) For purposes of paragraphs (1) and (2), the applicable credit
27 percentage shall be:

28 (A) Twenty percent of the qualified expenditures attributable
29 to the production of a qualified motion picture in California,
30 including, but not limited to, a feature, up to one hundred million
31 dollars (\$100,000,000) in qualified expenditures, or a television
32 series that relocated to California that is in its second or subsequent

1 years of receiving a tax credit allocation pursuant to this section
2 or Section 17053.85.

3 (B) Twenty-five percent of the qualified expenditures
4 attributable to the production of a qualified motion picture in
5 California where the qualified motion picture is a television series
6 that relocated to California in its first year of receiving a tax credit
7 allocation pursuant to this section.

8 (C) Twenty-five percent of the qualified expenditures, up to ten
9 million dollars (\$10,000,000), attributable to the production of a
10 qualified motion picture that is an independent film.

11 (D) Additional credits shall be allowed to a qualified motion
12 picture whose applicable credit percentage is determined pursuant
13 to subparagraph (A), in an aggregate amount not to exceed 5
14 percent of the qualified expenditures under that subparagraph, as
15 follows:

16 (i) (I) Five percent of qualified expenditures relating to original
17 photography outside the Los Angeles zone.

18 (II) For purposes of this clause:

19 (ia) “Applicable period” means the period that commences with
20 preproduction and ends when original photography concludes. The
21 applicable period includes the time necessary to strike a remote
22 location and return to the Los Angeles zone.

23 (ib) “Los Angeles zone” means the area within a circle 30 miles
24 in radius from Beverly Boulevard and La Cienega Boulevard, Los
25 Angeles, California, and includes Agua Dulce, Castaic, including
26 Lake Castaic, Leo Carillo State Beach, Ontario International
27 Airport, Piru, and Pomona, including the Los Angeles County
28 Fairgrounds. The Metro Goldwyn Mayer, Inc. Conejo Ranch
29 property is within the Los Angeles zone.

30 (ic) “Original photography” includes principal photography and
31 reshooting original footage.

32 (id) “Qualified expenditures relating to original photography
33 outside the Los Angeles zone” means amounts paid or incurred
34 during the applicable period for tangible personal property
35 purchased or leased and used or consumed outside the Los Angeles
36 zone and relating to original photography outside the Los Angeles
37 zone and qualified wages paid for services performed outside the
38 Los Angeles zone and relating to original photography outside the
39 Los Angeles zone.

1 (ii) Five percent of the qualified expenditures relating to music
2 scoring and music track recording by musicians attributable to the
3 production of a qualified motion picture in California.

4 (iii) Five percent of the qualified expenditures relating to
5 qualified visual effects attributable to the production of a qualified
6 motion picture in California.

7 ~~(b) For purposes of this section:~~ *the purposes of this section,*
8 *the following definitions shall apply:*

9 (1) “Ancillary product” means any article for sale to the public
10 that contains a portion of, or any element of, the qualified motion
11 picture.

12 (2) “Budget” means an estimate of all expenses paid or incurred
13 during the production period of a qualified motion picture. It shall
14 be the same budget used by the qualified taxpayer and production
15 company for all qualified motion picture purposes.

16 (3) “Clip use” means a use of any portion of a motion picture,
17 other than the qualified motion picture, used in the qualified motion
18 picture.

19 (4) “Credit certificate” means the certificate issued by the
20 California Film Commission pursuant to subparagraph (C) of
21 paragraph (3) of subdivision (g).

22 (5) (A) “Employee fringe benefits” means the amount allowable
23 as a deduction under this part to the qualified taxpayer involved
24 in the production of the qualified motion picture, exclusive of any
25 amounts contributed by employees, for any year during the
26 production period with respect to any of the following:

27 (i) Employer contributions under any pension, profit-sharing,
28 annuity, or similar plan.

29 (ii) Employer-provided coverage under any accident or health
30 plan for employees.

31 (iii) The employer’s cost of life or disability insurance provided
32 to employees.

33 (B) Any amount treated as wages under clause (i) of
34 subparagraph (A) of paragraph (21) shall not be taken into account
35 under this paragraph.

36 (6) “Independent film” means a motion picture with a minimum
37 budget of one million dollars (\$1,000,000) that is produced by a
38 company that is not publicly traded and publicly traded companies
39 do not own, directly or indirectly, more than 25 percent of the
40 producing company.

1 (7) “Jobs ratio” means the amount of qualified wages paid to
2 qualified individuals divided by the amount of tax credit, not
3 including any additional credit allowed pursuant to subparagraph
4 (D) of paragraph (4) of subdivision (a), as computed by the
5 California Film Commission.

6 (8) “Licensing” means any grant of rights to distribute the
7 qualified motion picture, in whole or in part.

8 (9) “New use” means any use of a motion picture in a medium
9 other than the medium for which it was initially created.

10 (10) “Pilot for a new television series” means the initial episode
11 produced for a proposed television series.

12 (11) (A) “Postproduction” means the final activities in a
13 qualified motion picture’s production, including editing, foley
14 recording, automatic dialogue replacement, sound editing, scoring,
15 music track recording by musicians and music editing, beginning
16 and end credits, negative cutting, negative processing and
17 duplication, the addition of sound and visual effects, sound mixing,
18 film-to-tape transfers, encoding, and color correction.

19 (B) “Postproduction” does not include the manufacture or
20 shipping of release prints or their equivalent.

21 (12) “Preproduction” means the process of preparation for actual
22 physical production which begins after a qualified motion picture
23 has received a firm agreement of financial commitment, or is
24 greenlit, with, for example, the establishment of a dedicated
25 production office, the hiring of key crew members, and includes,
26 but is not limited to, activities that include location scouting and
27 execution of contracts with vendors of equipment and stage space.

28 (13) “Principal photography” means the phase of production
29 during which the motion picture is actually shot, as distinguished
30 from preproduction and postproduction.

31 (14) “Production period” means the period beginning with
32 preproduction and ending upon completion of postproduction.

33 (15) “Qualified entity” means a personal service corporation as
34 defined in Section 269A(b)(1) of the Internal Revenue Code, a
35 payroll services corporation, or any entity receiving qualified wages
36 with respect to services performed by a qualified individual.

37 (16) “Qualified expenditures” means amounts paid or incurred
38 for tangible personal property purchased or leased, and used, within
39 this state in the production of a qualified motion picture and

1 payments, including qualified wages, for services performed within
2 this state in the production of a qualified motion picture.

3 (17) (A) “Qualified individual” means any individual who
4 performs services during the production period in an activity related
5 to the production of a qualified motion picture.

6 (B) “Qualified individual” shall not include either of the
7 following:

8 (i) Any individual related to the qualified taxpayer as described
9 in subparagraph (A), (B), or (C) of Section 51(i)(1) of the Internal
10 Revenue Code.

11 (ii) Any 5-percent owner, as defined in Section 416(i)(1)(B) of
12 the Internal Revenue Code, of the qualified taxpayer.

13 (18) (A) “Qualified motion picture” means a motion picture
14 that is produced for distribution to the general public, regardless
15 of medium, that is one of the following:

16 (i) A feature with a minimum production budget of one million
17 dollars (\$1,000,000).

18 (ii) A movie of the week or miniseries with a minimum
19 production budget of five hundred thousand dollars (\$500,000).

20 (iii) A new television series of episodes longer than 40 minutes
21 each of running time, exclusive of commercials, that is produced
22 in California, with a minimum production budget of one million
23 dollars (\$1,000,000) per episode.

24 (iv) An independent film.

25 (v) A television series that relocated to California.

26 (vi) A pilot for a new television series that is longer than 40
27 minutes of running time, exclusive of commercials, that is produced
28 in California, and with a minimum production budget of one
29 million dollars (\$1,000,000).

30 (B) To qualify as a “qualified motion picture,” all of the
31 following conditions shall be satisfied:

32 (i) At least 75 percent of the principal photography days occur
33 wholly in California or 75 percent of the production budget is
34 incurred for payment for services performed within the state and
35 the purchase or rental of property used within the state.

36 (ii) Production of the qualified motion picture is completed
37 within 30 months from the date on which the qualified taxpayer’s
38 application is approved by the California Film Commission. For
39 purposes of this section, a qualified motion picture is “completed”
40 when the process of postproduction has been finished.

1 (iii) The copyright for the motion picture is registered with the
2 United States Copyright Office pursuant to Title 17 of the United
3 States Code.

4 (iv) Principal photography of the qualified motion picture
5 commences after the date on which the application is approved by
6 the California Film Commission, but no later than 180 days after
7 the date of that approval unless death, disability, or disfigurement
8 of the director or of a principal cast member, an act of God,
9 including, but not limited to, fire, flood, earthquake, storm,
10 hurricane, or other natural disaster, terrorist activities, or
11 government sanction has directly prevented a production's ability
12 to begin principal photography within the prescribed 180-day
13 commencement period.

14 (C) For the purposes of subparagraph (A), in computing the
15 total wages paid or incurred for the production of a qualified
16 motion picture, all amounts paid or incurred by all persons or
17 entities that share in the costs of the qualified motion picture shall
18 be aggregated.

19 (D) "Qualified motion picture" shall not include commercial
20 advertising, music videos, a motion picture produced for private
21 noncommercial use, such as weddings, graduations, or as part of
22 an educational course and made by students, a news program,
23 current events or public events program, talk show, game show,
24 sporting event or activity, awards show, telethon or other
25 production that solicits funds, reality television program, clip-based
26 programming if more than 50 percent of the content is comprised
27 of licensed footage, documentaries, variety programs, daytime
28 dramas, strip shows, one-half hour (air time) episodic television
29 shows, or any production that falls within the recordkeeping
30 requirements of Section 2257 of Title 18 of the United States Code.

31 (19) (A) "Qualified taxpayer" means a taxpayer who has paid
32 or incurred qualified expenditures, participated in the Career
33 Readiness requirement, and has been issued a credit certificate by
34 the California Film Commission pursuant to subdivision (g).

35 (B) In the case of any pass-thru entity, the determination of
36 whether a taxpayer is a qualified taxpayer under this section shall
37 be made at the entity level and any credit under this section is not
38 allowed to the pass-thru entity, but shall be passed through to the
39 partners or shareholders in accordance with applicable provisions
40 of Part 10 (commencing with Section 17001) or Part 11

(commencing with Section 23001). For purposes of this paragraph, “pass-thru entity” means any entity taxed as a partnership or “S” corporation.

(20) “Qualified visual effects” means visual effects where at least 75 percent or a minimum of ten million dollars (\$10,000,000) of the qualified expenditures for the visual effects is paid or incurred in California.

(21) (A) “Qualified wages” means all of the following:

(i) Any wages subject to withholding under Division 6 (commencing with Section 13000) of the Unemployment Insurance Code that were paid or incurred by any taxpayer involved in the production of a qualified motion picture with respect to a qualified individual for services performed on the qualified motion picture production within this state.

(ii) The portion of any employee fringe benefits paid or incurred by any taxpayer involved in the production of the qualified motion picture that are properly allocable to qualified wage amounts described in clauses (i), (iii), and (iv).

(iii) Any payments made to a qualified entity for services performed in this state by qualified individuals within the meaning of paragraph (17).

(iv) Remuneration paid to an independent contractor who is a qualified individual for services performed within this state by that qualified individual.

(B) “Qualified wages” shall not include any of the following:

(i) Expenses, including wages, related to new use, reuse, clip use, licensing, secondary markets, or residual compensation, or the creation of any ancillary product, including, but not limited to, a soundtrack album, toy, game, trailer, or teaser.

(ii) Expenses, including wages, paid or incurred with respect to acquisition, development, turnaround, or any rights thereto.

(iii) Expenses, including wages, related to financing, overhead, marketing, promotion, or distribution of a qualified motion picture.

(iv) Expenses, including wages, paid per person per qualified motion picture for writers, directors, music directors, music composers, music supervisors, producers, and performers, other than background actors with no scripted lines.

(22) “Residual compensation” means supplemental compensation paid at the time that a motion picture is exhibited

1 through new use, reuse, clip use, or in secondary markets, as
2 distinguished from payments made during production.

3 (23) “Reuse” means any use of a qualified motion picture in the
4 same medium for which it was created, following the initial use
5 in that medium.

6 (24) “Secondary markets” means media in which a qualified
7 motion picture is exhibited following the initial media in which it
8 is exhibited.

9 (25) “Television series that relocated to California” means a
10 television series, without regard to episode length or initial media
11 exhibition, with a minimum production budget of one million
12 dollars (\$1,000,000) per episode, that filmed its most recent season
13 outside of California or has filmed all seasons outside of California
14 and for which the taxpayer certifies that the credit provided
15 pursuant to this section is the primary reason for relocating to
16 California.

17 (26) “Visual effects” means the creation, alteration, or
18 enhancement of images that cannot be captured on a set or location
19 during live action photography and therefore is accomplished in
20 postproduction. It includes, but is not limited to, matte paintings,
21 animation, set extensions, computer-generated objects, characters
22 and environments, compositing (combining two or more elements
23 in a final image), and wire removals. “Visual effects” does not
24 include fully animated projects, whether created by traditional or
25 digital means.

26 (c) (1) Notwithstanding any other law, a qualified taxpayer
27 may sell any credit allowed under this section that is attributable
28 to an independent film, as defined in paragraph (6) of subdivision
29 (b), to an unrelated party.

30 (2) The qualified taxpayer shall report to the Franchise Tax
31 Board prior to the sale of the credit, in the form and manner
32 specified by the Franchise Tax Board, all required information
33 regarding the purchase and sale of the credit, including the social
34 security or other taxpayer identification number of the unrelated
35 party to whom the credit has been sold, the face amount of the
36 credit sold, and the amount of consideration received by the
37 qualified taxpayer for the sale of the credit.

38 (3) In the case where the credit allowed under this section
39 exceeds the “net tax,” the excess credit may be carried over to

1 reduce the “net tax” in the following taxable year, and succeeding
2 five taxable years, if necessary, until the credit has been exhausted.

3 (4) A credit shall not be sold pursuant to this subdivision to
4 more than one taxpayer, nor may the credit be resold by the
5 unrelated party to another taxpayer or other party.

6 (5) A party that has acquired tax credits under this subdivision
7 shall be subject to the requirements of this section.

8 (6) In no event may a qualified taxpayer assign or sell any tax
9 credit to the extent the tax credit allowed by this section is claimed
10 on any tax return of the qualified taxpayer.

11 (7) In the event that both the taxpayer originally allocated a
12 credit under this section by the California Film Commission and
13 a taxpayer to whom the credit has been sold both claim the same
14 amount of credit on their tax returns, the Franchise Tax Board may
15 disallow the credit of either taxpayer, so long as the statute of
16 limitations upon assessment remains open.

17 (8) Chapter 3.5 (commencing with Section 11340) of Part 1 of
18 Division 3 of Title 2 of the Government Code does not apply to
19 any standard, criterion, procedure, determination, rule, notice, or
20 guideline established or issued by the Franchise Tax Board
21 pursuant to this subdivision.

22 (9) Subdivision (g) of Section 17039 shall not apply to any
23 credit sold pursuant to this subdivision.

24 (10) For purposes of this subdivision, the unrelated party or
25 parties that purchase a credit pursuant to this subdivision shall be
26 treated as a qualified taxpayer pursuant to paragraph (1) of
27 subdivision (a).

28 (d) (1) No credit shall be allowed pursuant to this section unless
29 the qualified taxpayer provides the following to the California
30 Film Commission:

31 (A) Identification of each qualified individual.

32 (B) The specific start and end dates of production.

33 (C) The total wages paid.

34 (D) The total amount of qualified wages paid to qualified
35 individuals.

36 (E) The copyright registration number, as reflected on the
37 certificate of registration issued under the authority of Section 410
38 of Title 17 of the United States Code, relating to registration of
39 claim and issuance of certificate. The registration number shall be
40 provided on the return claiming the credit.

1 (F) The total amounts paid or incurred to purchase or lease
2 tangible personal property used in the production of a qualified
3 motion picture.

4 (G) Information to substantiate its qualified expenditures.

5 (H) Information required by the California Film Commission
6 under regulations promulgated pursuant to subdivision (g)
7 necessary to verify the amount of credit claimed.

8 (I) Provides documentation verifying completion of the Career
9 Readiness requirement.

10 (2) (A) Based on the information provided in paragraph (1),
11 the California Film Commission shall recompute the jobs ratio
12 previously computed in subdivision (g) and compare this
13 recomputed jobs ratio to the jobs ratio that the qualified taxpayer
14 previously listed on the application submitted pursuant to
15 subdivision (g).

16 (B) (i) If the California Film Commission determines that the
17 jobs ratio has been reduced by more than 10 percent for a qualified
18 motion picture other than an independent film, the California Film
19 Commission shall reduce the amount of credit allowed by an equal
20 percentage, unless the qualified taxpayer demonstrates, and the
21 California Film Commission determines, that reasonable cause
22 exists for the jobs ratio reduction.

23 (ii) If the California Film Commission determines that the jobs
24 ratio has been reduced by more than 20 percent for a qualified
25 motion picture other than an independent film, the California Film
26 Commission shall not accept an application described in
27 subdivision (g) from that qualified taxpayer or any member of the
28 qualified taxpayer's controlled group for a period of not less than
29 one year from the date of that determination, unless the qualified
30 taxpayer demonstrates, and the California Film Commission
31 determines, that reasonable cause exists for the jobs ratio reduction.

32 (C) If the California Film Commission determines that the jobs
33 ratio has been reduced by more than 30 percent for an independent
34 film, the California Film Commission shall reduce the amount of
35 credit allowed by an equal percentage, plus 10 percent of the
36 amount of credit that would otherwise have been allowed, unless
37 the qualified taxpayer demonstrates, and the California Film
38 Commission determines, that reasonable cause exists for the jobs
39 ratio reduction.

1 (D) For the purposes of this paragraph, “reasonable cause”
2 means unforeseen circumstances beyond the control of the qualified
3 taxpayer, such as, but not limited to, the cancellation of a television
4 series prior to the completion of the scheduled number of episodes
5 or other similar circumstances as determined by the California
6 Film Commission in regulations to be adopted pursuant to
7 subdivision (e).

8 (e) (1) (A) Subject to the Administrative Procedure Act
9 (Chapter 3.5 (commencing with Section 11340) of Part 1 of
10 Division 3 of Title 2 of the Government Code), the California Film
11 Commission shall adopt rules and regulations to implement a
12 Career Readiness requirement by which the California Film
13 Commission shall identify training and public service opportunities
14 that may include, but not be limited to, hiring interns, public service
15 announcements, and community outreach and may prescribe rules
16 and regulations to carry out the purposes of this section, including,
17 subparagraph (D) of paragraph (4) of subdivision (a) and clause
18 (iv) of subparagraph (D) of paragraph (2) of subdivision (g), and
19 including any rules and regulations necessary to establish
20 procedures, processes, requirements, application fee structure, and
21 rules identified in or required to implement this section, including
22 credit and logo requirements and credit allocation procedures over
23 multiple fiscal years where the qualified taxpayer is producing a
24 series of features that will be filmed concurrently.

25 (B) Notwithstanding any other law, prior to preparing a notice
26 of proposed action pursuant to Section 11346.4 of the Government
27 Code and prior to making any revision to the proposed regulation
28 other than a change that is nonsubstantial or solely grammatical
29 in nature, the Governor’s Office of Business and Economic
30 Development shall first approve the proposed regulation or
31 proposed change to a proposed regulation regarding allocating the
32 credit pursuant to subdivision (i), computing the jobs ratio as
33 described in subdivisions (d) and (g), and defining “reasonable
34 cause” pursuant to subparagraph (E) of paragraph (2) of subdivision
35 (d).

36 (2) (A) Implementation of this section for the 2015–16 fiscal
37 year is deemed an emergency and necessary for the immediate
38 preservation of the public peace, health, and safety, or general
39 welfare and, therefore, the California Film Commission is hereby
40 authorized to adopt emergency regulations to implement this

1 section during the 2015–16 fiscal year in accordance with the
2 rulemaking provisions of the Administrative Procedure Act
3 (Chapter 3.5 (commencing with Section 11340) of Part 1 of
4 Division 3 of Title 2 of the Government Code).

5 (B) Nothing in this paragraph shall be construed to require the
6 Governor’s Office of Business and Economic Development to
7 approve emergency regulations adopted pursuant to this paragraph.

8 (3) The California Film Commission shall not be required to
9 prepare an economic impact analysis pursuant to the Administrative
10 Procedure Act (Chapter 3.5 (commencing with Section 11340) of
11 Part 1 of Division 3 of Title 2 of the Government Code) with regard
12 to any rules and regulations adopted pursuant to this subdivision.

13 (f) If the qualified taxpayer fails to provide the copyright
14 registration number as required in subparagraph (E) of paragraph
15 (1) of subdivision (d), the credit shall be disallowed and assessed
16 and collected under Section 19051 until the procedures are
17 satisfied.

18 (g) For purposes of this section, the California Film Commission
19 shall do the following:

20 (1) Subject to the requirements of subparagraphs (A) through
21 (E), inclusive, of paragraph (2), on or after July 1, 2015, and before
22 July 1, 2016, in one or more allocation periods per fiscal year,
23 allocate tax credits to applicants.

24 (2) On or after July 1, 2016, and before July 1, ~~2020~~, 2021, in
25 two or more allocation periods per fiscal year, allocate tax credits
26 to applicants.

27 (A) Establish a procedure for applicants to file with the
28 California Film Commission a written application, on a form jointly
29 prescribed by the California Film Commission and the Franchise
30 Tax Board for the allocation of the tax credit. The application shall
31 include, but not be limited to, the following information:

32 (i) The budget for the motion picture production.

33 (ii) The number of production days.

34 (iii) A financing plan for the production.

35 (iv) The diversity of the workforce employed by the applicant,
36 including, but not limited to, the ethnic and racial makeup of the
37 individuals employed by the applicant during the production of
38 the qualified motion picture, to the extent possible.

39 (v) All members of a combined reporting group, if known at
40 the time of the application.

(vi) Financial information, if available, including, but not limited to, the most recently produced balance sheets, annual statements of profits and losses, audited or unaudited financial statements, summary budget projections or results, or the functional equivalent of these documents of a partnership or owner of a single member limited liability company that is disregarded pursuant to Section 23038. The information provided pursuant to this clause shall be confidential and shall not be subject to public disclosure.

(vii) The names of all partners in a partnership not publicly traded or the names of all members of a limited liability company classified as a partnership not publicly traded for California income tax purposes that have a financial interest in the applicant's qualified motion picture. The information provided pursuant to this clause shall be confidential and shall not be subject to public disclosure.

(viii) The amount of qualified wages the applicant expects to pay to qualified individuals.

(ix) The amount of tax credit the applicant computes the qualified motion picture will receive, applying the applicable credit percentages described in paragraph (4) of subdivision (a).

(x) A statement establishing that the tax credit described in this section is a significant factor in the applicant's choice of location for the qualified motion picture. The statement shall include information about whether the qualified motion picture is at risk of not being filmed or specify the jurisdiction or jurisdictions in which the qualified motion picture will be located in the absence of the tax credit. The statement shall be signed by an officer or executive of the applicant.

(xi) Any other information deemed relevant by the California Film Commission or the Franchise Tax Board.

(B) Establish criteria, consistent with the requirements of this section, for allocating tax credits.

(C) Determine and designate applicants who meet the requirements of this section.

(D) (i) For purposes of allocating the credit amounts subject to the categories described in subdivision (i) in any fiscal year, the California Film Commission shall do all of the following:

(ii) For each allocation date and for each category, list each applicant from highest to lowest according to the jobs ratio as computed by the California Film Commission.

1 (iii) Subject to the applicable credit percentage, allocate the
2 credit to each applicant according to the highest jobs ratio, working
3 down the list, until the credit amount is exhausted.

4 (iv) Pursuant to regulations adopted pursuant to subdivision (e),
5 the California Film Commission may increase the jobs ratio by up
6 to 25 percent if a qualified motion picture increases economic
7 activity in California according to criteria developed by the
8 California Film Commission that would include, but not be limited
9 to, such factors as, the amount of the production and postproduction
10 spending in California, the utilization of production facilities in
11 California, and other criteria measuring economic impact in
12 California as determined by the Film Commission.

13 (v) Notwithstanding any other provision, any television series,
14 relocating television series, or any new television series based on
15 a pilot for a new television series that has been approved and issued
16 a credit allocation by the California Film Commission under this
17 section, Section 23695, 17053.85, or 23685 shall be issued a credit
18 for each subsequent year, for the life of that television series
19 whenever credits are allocated within a fiscal year.

20 (E) Subject to the annual cap and the allocation credit amounts
21 based on categories described in subdivision (i), allocate an
22 aggregate amount of credits under this section and Section 23695,
23 and allocate any carryover of unallocated credits from prior years
24 and the amount of any credits reduced pursuant to paragraph (2)
25 of subdivision (d).

26 (3) Certify tax credits allocated to qualified taxpayers.

27 (A) Establish a verification procedure for the amount of qualified
28 expenditures paid or incurred by the applicant, including, but not
29 limited to, updates to the information in subparagraph (A) of
30 paragraph (2) of subdivision (g).

31 (B) Establish audit requirements that must be satisfied before
32 a credit certificate may be issued by the California Film
33 Commission.

34 (C) (i) Establish a procedure for a qualified taxpayer to report
35 to the California Film Commission, prior to the issuance of a credit
36 certificate, the following information:

37 (I) If readily available, a list of the states, provinces, or other
38 jurisdictions in which any member of the applicant's combined
39 reporting group in the same business unit as the qualified taxpayer
40 that, in the preceding calendar year, has produced a qualified

1 motion picture intended for release in the United States market.
2 For purposes of this clause, “qualified motion picture” shall not
3 include any episodes of a television series that were complete or
4 in production prior to July 1, 2016.

5 (II) Whether a qualified motion picture described in subclause
6 (I) was awarded any financial incentive by the state, province, or
7 other jurisdiction that was predicated on the performance of
8 primary principal photography or postproduction in that location.

9 (ii) The California Film Commission may provide that the report
10 required by this subparagraph be filed in a single report provided
11 on a calendar year basis for those qualified taxpayers that receive
12 multiple credit certificates in a calendar year.

13 (D) Issue a credit certificate to a qualified taxpayer upon
14 completion of the qualified motion picture reflecting the credit
15 amount allocated after qualified expenditures have been verified
16 and the jobs ratio computed under this section. The amount of
17 credit shown in the credit certificate shall not exceed the amount
18 of credit allocated to that qualified taxpayer pursuant to this section.

19 (4) Obtain, when possible, the following information from
20 applicants that do not receive an allocation of credit:

21 (A) Whether the qualified motion picture that was the subject
22 of the application was completed.

23 (B) If completed, in which state or foreign jurisdiction was the
24 primary principal photography completed.

25 (C) Whether the applicant received any financial incentives
26 from the state or foreign jurisdiction to make the qualified motion
27 picture in that location.

28 (5) Provide the Legislative Analyst’s Office, upon request, any
29 or all application materials or any other materials received from,
30 or submitted by, the applicants, in electronic format when available,
31 including, but not limited to, information provided pursuant to
32 clauses (i) to (xi) inclusive, of subparagraph (A) of paragraph (2).

33 (6) The information provided to the California Film Commission
34 pursuant to this section shall constitute confidential tax information
35 for purposes of Article 2 (commencing with Section 19542) of
36 Chapter 7 of Part 10.2.

37 (h) (1) The California Film Commission shall annually provide
38 the Legislative Analyst’s Office, the Franchise Tax Board, and the
39 board with a list of qualified taxpayers and the tax credit amounts
40 allocated to each qualified taxpayer by the California Film

Commission. The list shall include the names and taxpayer identification numbers, including taxpayer identification numbers of each partner or shareholder, as applicable, of the qualified taxpayer.

(2) (A) Notwithstanding paragraph (6) of subdivision (g), the California Film Commission shall annually post on its Internet Web site and make available for public release the following:

(i) A table which includes all of the following information: a list of qualified taxpayers and the tax credit amounts allocated to each qualified taxpayer by the California Film Commission, the number of production days in California the qualified taxpayer represented in its application would occur, the number of California jobs that the qualified taxpayer represented in its application would be directly created by the production, and the total amount of qualified expenditures expected to be spent by the production.

(ii) A narrative staff summary describing the production of the qualified taxpayer as well as background information regarding the qualified taxpayer contained in the qualified taxpayer's application for the credit.

(B) Nothing in this subdivision shall be construed to make the information submitted by an applicant for a tax credit under this section a public record.

(3) The California Film Commission shall provide each city and county in California with an instructional guide that includes, but is not limited to, a review of best practices for facilitating motion picture production in local jurisdictions, resources on hosting and encouraging motion picture production, and the California Film Commissions' Model Film Ordinance. The California Film Commission shall maintain on its Internet Web site a list of initiatives by locality that encourage motion picture production in regions across the state. The list shall be distributed to each approved applicant for the program to highlight local jurisdictions that offer incentives to facilitate film production.

(i) (1) (A) The aggregate amount of credits that may be allocated for a fiscal year pursuant to this section and Section 23695 is the applicable amount described in the following, plus any amount described in subparagraph (B), (C), or (D):

(i) Two hundred thirty million dollars (\$230,000,000) in credits for the 2015–16 fiscal year.

(ii) Three hundred thirty million dollars (\$330,000,000) in credits for the 2016–17 fiscal year and each fiscal year thereafter, through and including the ~~2019–20~~ 2020–21 fiscal year.

(B) The unused allocation credit amount, if any, for the preceding fiscal year.

(C) The amount of previously allocated credits not certified.

(D) The amount of any credits reduced pursuant to paragraph (2) of subdivision (d).

(2) (A) Notwithstanding the foregoing, the California Film Commission shall allocate the credit amounts subject to the following categories:

(i) Independent films shall be allocated 5 percent of the amount specified in paragraph (1).

(ii) Features shall be allocated 35 percent of the amount specified in paragraph (1).

(iii) A relocating television series shall be allocated 20 percent of the amount specified in paragraph (1).

(iv) A new television series, pilots for a new television series, movies of the week, miniseries, and recurring television series shall be allocated 40 percent of the amount specified in paragraph (1).

(B) Within 60 days after the allocation period, any unused amount within a category or categories shall be first reallocated to the category described in clause (iv) of subparagraph (A) and, if any unused amount remains, reallocated to another category or categories with a higher demand as determined by the California Film Commission.

(C) Notwithstanding the foregoing, the California Film Commission may increase or decrease an allocation amount in subparagraph (A) by 5 percent, if necessary, due to the jobs ratio, the number of applications, or the allocation credit amounts available by category compared to demand.

(D) With respect to a relocating television series issued a credit in a subsequent year pursuant to clause (v) of subparagraph (D) of paragraph (2) of subdivision (g), that subsequent credit amount shall be allowed from the allocation amount described in clause (iv) of subparagraph (A).

(3) Any act that reduces the amount that may be allocated pursuant to paragraph (1) constitutes a change in state taxes for the purpose of increasing revenues within the meaning of Section

1 3 of Article XIII A of the California Constitution and may be passed
2 by not less than two-thirds of all Members elected to each of the
3 two houses of the Legislature.

4 (j) The California Film Commission shall have the authority to
5 allocate tax credits in accordance with this section and in
6 accordance with any regulations prescribed pursuant to subdivision
7 (e) upon adoption.

8 **SECTION 1.**

9 *SEC. 2.* Section 23695 of the Revenue and Taxation Code is
10 amended to read:

11 23695. (a) (1) For taxable years beginning on or after January
12 1, 2016, there shall be allowed to a qualified taxpayer a credit
13 against the “tax,” as defined in Section 23036, subject to a
14 computation and ranking by the California Film Commission in
15 subdivision (g) and the allocation amount categories described in
16 subdivision (i), in an amount equal to 20 percent or 25 percent,
17 whichever is the applicable credit percentage described in
18 paragraph (4), of the qualified expenditures for the production of
19 a qualified motion picture in California. A credit shall not be
20 allowed under this section for any qualified expenditures for the
21 production of a motion picture in California if a credit has been
22 claimed for those same expenditures under Section 23685.

23 (2) Except as otherwise provided in this section, the credit shall
24 be allowed for the taxable year in which the California Film
25 Commission issues the credit certificate pursuant to subdivision
26 (g) for the qualified motion picture, but in no instance prior to July
27 1, 2016, and shall be for the applicable percentage of all qualified
28 expenditures paid or incurred by the qualified taxpayer in all
29 taxable years for that qualified motion picture.

30 (3) The amount of the credit allowed to a qualified taxpayer
31 shall be limited to the amount specified in the credit certificate
32 issued to the qualified taxpayer by the California Film Commission
33 pursuant to subdivision (g).

34 (4) For purposes of paragraphs (1) and (2), the applicable credit
35 percentage shall be:

36 (A) Twenty percent of the qualified expenditures attributable
37 to the production of a qualified motion picture in California,
38 including, but not limited to, a feature, up to one hundred million
39 dollars (\$100,000,000) in qualified expenditures, or a television
40 series that relocated to California that is in its second or subsequent

1 years of receiving a tax credit allocation pursuant to this section
2 or Section 23685.

3 (B) Twenty-five percent of the qualified expenditures
4 attributable to the production of a qualified motion picture in
5 California where the qualified motion picture is a television series
6 that relocated to California in its first year of receiving a tax credit
7 allocation pursuant to this section.

8 (C) Twenty-five percent of the qualified expenditures, up to ten
9 million dollars (\$10,000,000), attributable to the production of a
10 qualified motion picture that is an independent film.

11 (D) Additional credits shall be allowed to a qualified motion
12 picture whose applicable credit percentage is determined pursuant
13 to subparagraph (A), in an aggregate amount not to exceed 5
14 percent of the qualified expenditures under that subparagraph, as
15 follows:

16 (i) (I) Five percent of qualified expenditures relating to original
17 photography outside the Los Angeles zone.

18 (II) For purposes of this clause:

19 (ia) “Applicable period” means the period that commences with
20 preproduction and ends when original photography concludes. The
21 applicable period includes the time necessary to strike a remote
22 location and return to the Los Angeles zone.

23 (ib) “Los Angeles zone” means the area within a circle 30 miles
24 in radius from Beverly Boulevard and La Cienega Boulevard, Los
25 Angeles, California, and includes Agua Dulce, Castaic, including
26 Lake Castaic, Leo Carillo State Beach, Ontario International
27 Airport, Piru, and Pomona, including the Los Angeles County
28 Fairgrounds. The Metro Goldwyn Mayer, Inc. Conejo Ranch
29 property is within the Los Angeles zone.

30 (ic) “Original photography” includes principal photography and
31 reshooting original footage.

32 (id) “Qualified expenditures relating to original photography
33 outside the Los Angeles zone” means amounts paid or incurred
34 during the applicable period for tangible personal property
35 purchased or leased and used or consumed outside the Los Angeles
36 zone and relating to original photography outside the Los Angeles
37 zone and qualified wages paid for services performed outside the
38 Los Angeles zone and relating to original photography outside the
39 Los Angeles zone.

1 (ii) Five percent of the qualified expenditures relating to music
2 scoring and music track recording by musicians attributable to the
3 production of a qualified motion picture in California.

4 (iii) Five percent of the qualified expenditures relating to
5 qualified visual effects attributable to the production of a qualified
6 motion picture in California.

7 (b) For the purposes of this section, the following definitions
8 shall apply:

9 (1) “Ancillary product” means any article for sale to the public
10 that contains a portion of, or any element of, the qualified motion
11 picture.

12 (2) “Budget” means an estimate of all expenses paid or incurred
13 during the production period of a qualified motion picture. It shall
14 be the same budget used by the qualified taxpayer and production
15 company for all qualified motion picture purposes.

16 (3) “Clip use” means a use of any portion of a motion picture,
17 other than the qualified motion picture, used in the qualified motion
18 picture.

19 (4) “Credit certificate” means the certificate issued by the
20 California Film Commission pursuant to subparagraph (C) of
21 paragraph (3) of subdivision (g).

22 (5) (A) “Employee fringe benefits” means the amount allowable
23 as a deduction under this part to the qualified taxpayer involved
24 in the production of the qualified motion picture, exclusive of any
25 amounts contributed by employees, for any year during the
26 production period with respect to any of the following:

27 (i) Employer contributions under any pension, profit-sharing,
28 annuity, or similar plan.

29 (ii) Employer-provided coverage under any accident or health
30 plan for employees.

31 (iii) The employer’s cost of life or disability insurance provided
32 to employees.

33 (B) Any amount treated as wages under clause (i) of
34 subparagraph (A) of paragraph (21) shall not be taken into account
35 under this paragraph.

36 (6) “Independent film” means a motion picture with a minimum
37 budget of one million dollars (\$1,000,000) that is produced by a
38 company that is not publicly traded and publicly traded companies
39 do not own, directly or indirectly, more than 25 percent of the
40 producing company.

1 (7) “Jobs ratio” means the amount of qualified wages paid to
2 qualified individuals divided by the amount of tax credit, not
3 including any additional credit allowed pursuant to subparagraph
4 (D) of paragraph (4) of subdivision (a), as computed by the
5 California Film Commission.

6 (8) “Licensing” means any grant of rights to distribute the
7 qualified motion picture, in whole or in part.

8 (9) “New use” means any use of a motion picture in a medium
9 other than the medium for which it was initially created.

10 (10) “Pilot for a new television series” means the initial episode
11 produced for a proposed television series.

12 (11) (A) “Postproduction” means the final activities in a
13 qualified motion picture’s production, including editing, foley
14 recording, automatic dialogue replacement, sound editing, scoring,
15 music track recording by musicians and music editing, beginning
16 and end credits, negative cutting, negative processing and
17 duplication, the addition of sound and visual effects, sound mixing,
18 film-to-tape transfers, encoding, and color correction.

19 (B) “Postproduction” does not include the manufacture or
20 shipping of release prints or their equivalent.

21 (12) “Preproduction” means the process of preparation for actual
22 physical production which begins after a qualified motion picture
23 has received a firm agreement of financial commitment, or is
24 greenlit, with, for example, the establishment of a dedicated
25 production office, the hiring of key crew members, and includes,
26 but is not limited to, activities that include location scouting and
27 execution of contracts with vendors of equipment and stage space.

28 (13) “Principal photography” means the phase of production
29 during which the motion picture is actually shot, as distinguished
30 from preproduction and postproduction.

31 (14) “Production period” means the period beginning with
32 preproduction and ending upon completion of postproduction.

33 (15) “Qualified entity” means a personal service corporation as
34 defined in Section 269A(b)(1) of the Internal Revenue Code, a
35 payroll services corporation, or any entity receiving qualified wages
36 with respect to services performed by a qualified individual.

37 (16) “Qualified expenditures” means amounts paid or incurred
38 for tangible personal property purchased or leased, and used, within
39 this state in the production of a qualified motion picture and

1 payments, including qualified wages, for services performed within
2 this state in the production of a qualified motion picture.

3 (17) (A) “Qualified individual” means any individual who
4 performs services during the production period in an activity related
5 to the production of a qualified motion picture.

6 (B) “Qualified individual” shall not include either of the
7 following:

8 (i) Any individual related to the qualified taxpayer as described
9 in subparagraph (A), (B), or (C) of Section 51(i)(1) of the Internal
10 Revenue Code.

11 (ii) Any 5-percent owner, as defined in Section 416(i)(1)(B) of
12 the Internal Revenue Code, of the qualified taxpayer.

13 (18) (A) “Qualified motion picture” means a motion picture
14 that is produced for distribution to the general public, regardless
15 of medium, that is one of the following:

16 (i) A feature with a minimum production budget of one million
17 dollars (\$1,000,000).

18 (ii) A movie of the week or miniseries with a minimum
19 production budget of five hundred thousand dollars (\$500,000).

20 (iii) A new television series of episodes longer than 40 minutes
21 each of running time, exclusive of commercials, that is produced
22 in California, with a minimum production budget of one million
23 dollars (\$1,000,000) per episode.

24 (iv) An independent film.

25 (v) A television series that relocated to California.

26 (vi) A pilot for a new television series that is longer than 40
27 minutes of running time, exclusive of commercials, that is produced
28 in California, and with a minimum production budget of one
29 million dollars (\$1,000,000).

30 (B) To qualify as a “qualified motion picture,” all of the
31 following conditions shall be satisfied:

32 (i) At least 75 percent of the principal photography days occur
33 wholly in California or 75 percent of the production budget is
34 incurred for payment for services performed within the state and
35 the purchase or rental of property used within the state.

36 (ii) Production of the qualified motion picture is completed
37 within 30 months from the date on which the qualified taxpayer’s
38 application is approved by the California Film Commission. For
39 purposes of this section, a qualified motion picture is “completed”
40 when the process of postproduction has been finished.

1 (iii) The copyright for the motion picture is registered with the
2 United States Copyright Office pursuant to Title 17 of the United
3 States Code.

4 (iv) Principal photography of the qualified motion picture
5 commences after the date on which the application is approved by
6 the California Film Commission, but no later than 180 days after
7 the date of that approval unless death, disability, or disfigurement
8 of the director or of a principal cast member, an act of God,
9 including, but not limited to, fire, flood, earthquake, storm,
10 hurricane, or other natural disaster, terrorist activities, or
11 government sanction has directly prevented a production's ability
12 to begin principal photography within the prescribed 180-day
13 commencement period.

14 (C) For the purposes of subparagraph (A), in computing the
15 total wages paid or incurred for the production of a qualified
16 motion picture, all amounts paid or incurred by all persons or
17 entities that share in the costs of the qualified motion picture shall
18 be aggregated.

19 (D) "Qualified motion picture" shall not include commercial
20 advertising, music videos, a motion picture produced for private
21 noncommercial use, such as weddings, graduations, or as part of
22 an educational course and made by students, a news program,
23 current events or public events program, talk show, game show,
24 sporting event or activity, awards show, telethon or other
25 production that solicits funds, reality television program, clip-based
26 programming if more than 50 percent of the content is comprised
27 of licensed footage, documentaries, variety programs, daytime
28 dramas, strip shows, one-half hour (air time) episodic television
29 shows, or any production that falls within the recordkeeping
30 requirements of Section 2257 of Title 18 of the United States Code.

31 (19) (A) "Qualified taxpayer" means a taxpayer who has paid
32 or incurred qualified expenditures, participated in the Career
33 Readiness requirement, and has been issued a credit certificate by
34 the California Film Commission pursuant to subdivision (g).

35 (B) (i) In the case of any pass-thru entity, the determination of
36 whether a taxpayer is a qualified taxpayer under this section shall
37 be made at the entity level and any credit under this section is not
38 allowed to the pass-thru entity, but shall be passed through to the
39 partners or shareholders in accordance with applicable provisions
40 of Part 10 (commencing with Section 17001) or Part 11

1 (commencing with Section 23001). For purposes of this paragraph,
2 “pass-thru entity” means any entity taxed as a partnership or “S”
3 corporation.

4 (ii) In the case of an “S” corporation, the credit allowed under
5 this section shall not be used by an “S” corporation as a credit
6 against a tax imposed under Chapter 4.5 (commencing with Section
7 23800) of Part 11 of Division 2.

8 (20) “Qualified visual effects” means visual effects where at
9 least 75 percent or a minimum of ten million dollars (\$10,000,000)
10 of the qualified expenditures for the visual effects is paid or
11 incurred in California.

12 (21) (A) “Qualified wages” means all of the following:

13 (i) Any wages subject to withholding under Division 6
14 (commencing with Section 13000) of the Unemployment Insurance
15 Code that were paid or incurred by any taxpayer involved in the
16 production of a qualified motion picture with respect to a qualified
17 individual for services performed on the qualified motion picture
18 production within this state.

19 (ii) The portion of any employee fringe benefits paid or incurred
20 by any taxpayer involved in the production of the qualified motion
21 picture that are properly allocable to qualified wage amounts
22 described in clauses (i), (iii), and (iv).

23 (iii) Any payments made to a qualified entity for services
24 performed in this state by qualified individuals within the meaning
25 of paragraph (17).

26 (iv) Remuneration paid to an independent contractor who is a
27 qualified individual for services performed within this state by that
28 qualified individual.

29 (B) “Qualified wages” shall not include any of the following:

30 (i) Expenses, including wages, related to new use, reuse, clip
31 use, licensing, secondary markets, or residual compensation, or
32 the creation of any ancillary product, including, but not limited to,
33 a soundtrack album, toy, game, trailer, or teaser.

34 (ii) Expenses, including wages, paid or incurred with respect to
35 acquisition, development, turnaround, or any rights thereto.

36 (iii) Expenses, including wages, related to financing, overhead,
37 marketing, promotion, or distribution of a qualified motion picture.

38 (iv) Expenses, including wages, paid per person per qualified
39 motion picture for writers, directors, music directors, music

1 composers, music supervisors, producers, and performers, other
2 than background actors with no scripted lines.

3 (22) “Residual compensation” means supplemental
4 compensation paid at the time that a motion picture is exhibited
5 through new use, reuse, clip use, or in secondary markets, as
6 distinguished from payments made during production.

7 (23) “Reuse” means any use of a qualified motion picture in the
8 same medium for which it was created, following the initial use
9 in that medium.

10 (24) “Secondary markets” means media in which a qualified
11 motion picture is exhibited following the initial media in which it
12 is exhibited.

13 (25) “Television series that relocated to California” means a
14 television series, without regard to episode length or initial media
15 exhibition, with a minimum production budget of one million
16 dollars (\$1,000,000) per episode, that filmed its most recent season
17 outside of California or has filmed all seasons outside of California
18 and for which the taxpayer certifies that the credit provided
19 pursuant to this section is the primary reason for relocating to
20 California.

21 (26) “Visual effects” means the creation, alteration, or
22 enhancement of images that cannot be captured on a set or location
23 during live action photography and therefore is accomplished in
24 postproduction. It includes, but is not limited to, matte paintings,
25 animation, set extensions, computer-generated objects, characters
26 and environments, compositing (combining two or more elements
27 in a final image), and wire removals. “Visual effects” does not
28 include fully animated projects, whether created by traditional or
29 digital means.

30 (c) (1) Notwithstanding subdivision (i) of Section 23036, in
31 the case where the credit allowed by this section exceeds the
32 taxpayer’s tax liability computed under this part, a qualified
33 taxpayer may elect to assign any portion of the credit allowed
34 under this section to one or more affiliated corporations for each
35 taxable year in which the credit is allowed. For purposes of this
36 subdivision, “affiliated corporation” has the meaning provided in
37 subdivision (b) of Section 25110, as that section was amended by
38 Chapter 881 of the Statutes of 1993, as of the last day of the taxable
39 year in which the credit is allowed, except that “100 percent” is
40 substituted for “more than 50 percent” wherever it appears in the

1 section, and “voting common stock” is substituted for “voting
2 stock” wherever it appears in the section.

3 (2) The election provided in paragraph (1):

4 (A) May be based on any method selected by the qualified
5 taxpayer that originally receives the credit.

6 (B) Shall be irrevocable for the taxable year the credit is allowed,
7 once made.

8 (C) May be changed for any subsequent taxable year if the
9 election to make the assignment is expressly shown on each of the
10 returns of the qualified taxpayer and the qualified taxpayer’s
11 affiliated corporations that assign and receive the credits.

12 (D) Shall be reported to the Franchise Tax Board, in the form
13 and manner specified by the Franchise Tax Board, along with all
14 required information regarding the assignment of the credit,
15 including the corporation number, the federal employer
16 identification number, or other taxpayer identification number of
17 the assignee, and the amount of the credit assigned.

18 (3) (A) Notwithstanding any other law, a qualified taxpayer
19 may sell any credit allowed under this section that is attributable
20 to an independent film, as defined in paragraph (6) of subdivision
21 (b), to an unrelated party.

22 (B) The qualified taxpayer shall report to the Franchise Tax
23 Board prior to the sale of the credit, in the form and manner
24 specified by the Franchise Tax Board, all required information
25 regarding the purchase and sale of the credit, including the social
26 security or other taxpayer identification number of the unrelated
27 party to whom the credit has been sold, the face amount of the
28 credit sold, and the amount of consideration received by the
29 qualified taxpayer for the sale of the credit.

30 (4) In the case where the credit allowed under this section
31 exceeds the “tax,” the excess credit may be carried over to reduce
32 the “tax” in the following taxable year, and succeeding five taxable
33 years, if necessary, until the credit has been exhausted.

34 (5) A credit shall not be sold pursuant to this subdivision to
35 more than one taxpayer, nor may the credit be resold by the
36 unrelated party to another taxpayer or other party.

37 (6) A party that has been assigned or acquired tax credits under
38 this subdivision shall be subject to the requirements of this section.

1 (7) In no event may a qualified taxpayer assign or sell any tax
2 credit to the extent the tax credit allowed by this section is claimed
3 on any tax return of the qualified taxpayer.

4 (8) In the event that both the taxpayer originally allocated a
5 credit under this section by the California Film Commission and
6 a taxpayer to whom the credit has been sold both claim the same
7 amount of credit on their tax returns, the Franchise Tax Board may
8 disallow the credit of either taxpayer, so long as the statute of
9 limitations upon assessment remains open.

10 (9) Chapter 3.5 (commencing with Section 11340) of Part 1 of
11 Division 3 of Title 2 of the Government Code does not apply to
12 any standard, criterion, procedure, determination, rule, notice, or
13 guideline established or issued by the Franchise Tax Board
14 pursuant to this subdivision.

15 (10) Subdivision (i) of Section 23036 shall not apply to any
16 credit sold pursuant to this subdivision.

17 (11) For purposes of this subdivision:

18 (A) An affiliated corporation or corporations that are assigned
19 a credit pursuant to paragraph (1) shall be treated as a qualified
20 taxpayer pursuant to paragraph (1) of subdivision (a).

21 (B) The unrelated party or parties that purchase a credit pursuant
22 to paragraphs (3) to (10), inclusive, shall be treated as a qualified
23 taxpayer pursuant to paragraph (1) of subdivision (a).

24 (d) (1) No credit shall be allowed pursuant to this section unless
25 the qualified taxpayer provides the following to the California
26 Film Commission:

27 (A) Identification of each qualified individual.

28 (B) The specific start and end dates of production.

29 (C) The total wages paid.

30 (D) The total amount of qualified wages paid to qualified
31 individuals.

32 (E) The copyright registration number, as reflected on the
33 certificate of registration issued under the authority of Section 410
34 of Title 17 of the United States Code, relating to registration of
35 claim and issuance of certificate. The registration number shall be
36 provided on the return claiming the credit.

37 (F) The total amounts paid or incurred to purchase or lease
38 tangible personal property used in the production of a qualified
39 motion picture.

40 (G) Information to substantiate its qualified expenditures.

1 (H) Information required by the California Film Commission
2 under regulations promulgated pursuant to subdivision (g)
3 necessary to verify the amount of credit claimed.

4 (I) Provides documentation verifying completion of the Career
5 Readiness requirement.

6 (2) (A) Based on the information provided in paragraph (1),
7 the California Film Commission shall recompute the jobs ratio
8 previously computed in subdivision (g) and compare this
9 recomputed jobs ratio to the jobs ratio that the qualified taxpayer
10 previously listed on the application submitted pursuant to
11 subdivision (g).

12 (B) (i) If the California Film Commission determines that the
13 jobs ratio has been reduced by more than 10 percent for a qualified
14 motion picture other than an independent film, the California Film
15 Commission shall reduce the amount of credit allowed by an equal
16 percentage, unless the qualified taxpayer demonstrates, and the
17 California Film Commission determines, that reasonable cause
18 exists for the jobs ratio reduction.

19 (ii) If the California Film Commission determines that the jobs
20 ratio has been reduced by more than 20 percent for a qualified
21 motion picture other than an independent film, the California Film
22 Commission shall not accept an application described in
23 subdivision (g) from that qualified taxpayer or any member of the
24 qualified taxpayer's controlled group for a period of not less than
25 one year from the date of that determination, unless the qualified
26 taxpayer demonstrates, and the California Film Commission
27 determines, that reasonable cause exists for the jobs ratio reduction.

28 (C) If the California Film Commission determines that the jobs
29 ratio has been reduced by more than 30 percent for an independent
30 film, the California Film Commission shall reduce the amount of
31 credit allowed by an equal percentage, plus 10 percent of the
32 amount of credit that would otherwise have been allowed, unless
33 the qualified taxpayer demonstrates, and the California Film
34 Commission determines, that reasonable cause exists for the jobs
35 ratio reduction.

36 (D) For the purposes of this paragraph, "reasonable cause"
37 means unforeseen circumstances beyond the control of the qualified
38 taxpayer, such as, but not limited to, the cancellation of a television
39 series prior to the completion of the scheduled number of episodes
40 or other similar circumstances as determined by the California

1 Film Commission in regulations to be adopted pursuant to
2 subdivision (e).

3 (e) (1) (A) Subject to the Administrative Procedure Act
4 (Chapter 3.5 (commencing with Section 11340) of Part 1 of
5 Division 3 of Title 2 of the Government Code), the California Film
6 Commission shall adopt rules and regulations to implement a
7 Career Readiness requirement by which the California Film
8 Commission shall identify training and public service opportunities
9 that may include, but not be limited to, hiring interns, public service
10 announcements, and community outreach and may prescribe rules
11 and regulations to carry out the purposes of this section, including,
12 subparagraph (D) of paragraph (4) of subdivision (a) and clause
13 (iv) of subparagraph (D) of paragraph (2) of subdivision (g), and
14 including any rules and regulations necessary to establish
15 procedures, processes, requirements, application fee structure, and
16 rules identified in or required to implement this section, including
17 credit and logo requirements and credit allocation procedures over
18 multiple fiscal years where the qualified taxpayer is producing a
19 series of features that will be filmed concurrently.

20 (B) Notwithstanding any other law, prior to preparing a notice
21 of proposed action pursuant to Section 11346.4 of the Government
22 Code and prior to making any revision to the proposed regulation
23 other than a change that is nonsubstantial or solely grammatical
24 in nature, the Governor's Office of Business and Economic
25 Development shall first approve the proposed regulation or
26 proposed change to a proposed regulation regarding allocating the
27 credit pursuant to subdivision (i), computing the jobs ratio as
28 described in subdivisions (d) and (g), and defining "reasonable
29 cause" pursuant to subparagraph (E) of paragraph (2) of subdivision
30 (d).

31 (2) (A) Implementation of this section for the 2015–16 fiscal
32 year is deemed an emergency and necessary for the immediate
33 preservation of the public peace, health, and safety, or general
34 welfare and, therefore, the California Film Commission is hereby
35 authorized to adopt emergency regulations to implement this
36 section during the 2015–16 fiscal year in accordance with the
37 rulemaking provisions of the Administrative Procedure Act
38 (Chapter 3.5 (commencing with Section 11340) of Part 1 of
39 Division 3 of Title 2 of the Government Code).

1 (B) Nothing in this paragraph shall be construed to require the
2 Governor's Office of Business and Economic Development to
3 approve emergency regulations adopted pursuant to this paragraph.

4 (3) The California Film Commission shall not be required to
5 prepare an economic impact analysis pursuant to the Administrative
6 Procedure Act (Chapter 3.5 (commencing with Section 11340) of
7 Part 1 of Division 3 of Title 2 of the Government Code) with regard
8 to any rules and regulations adopted pursuant to this subdivision.

9 (f) If the qualified taxpayer fails to provide the copyright
10 registration number as required in subparagraph (E) of paragraph
11 (1) of subdivision (d), the credit shall be disallowed and assessed
12 and collected under Section 19051 until the procedures are
13 satisfied.

14 (g) For purposes of this section, the California Film Commission
15 shall do the following:

16 (1) Subject to the requirements of subparagraphs (A) through
17 (E), inclusive, of paragraph (2), on or after July 1, 2015, and before
18 July 1, 2016, in one or more allocation periods per fiscal year,
19 allocate tax credits to applicants.

20 (2) On or after July 1, 2016, and before July 1, ~~2020~~, 2021, in
21 two or more allocation periods per fiscal year, allocate tax credits
22 to applicants.

23 (A) Establish a procedure for applicants to file with the
24 California Film Commission a written application, on a form jointly
25 prescribed by the California Film Commission and the Franchise
26 Tax Board for the allocation of the tax credit. The application shall
27 include, but not be limited to, the following information:

28 (i) The budget for the motion picture production.

29 (ii) The number of production days.

30 (iii) A financing plan for the production.

31 (iv) The diversity of the workforce employed by the applicant,
32 including, but not limited to, the ethnic and racial makeup of the
33 individuals employed by the applicant during the production of
34 the qualified motion picture, to the extent possible.

35 (v) All members of a combined reporting group, if known at
36 the time of the application.

37 (vi) Financial information, if available, including, but not limited
38 to, the most recently produced balance sheets, annual statements
39 of profits and losses, audited or unaudited financial statements,
40 summary budget projections or results, or the functional equivalent

1 of these documents of a partnership or owner of a single member
2 limited liability company that is disregarded pursuant to Section
3 23038. The information provided pursuant to this clause shall be
4 confidential and shall not be subject to public disclosure.

5 (vii) The names of all partners in a partnership not publicly
6 traded or the names of all members of a limited liability company
7 classified as a partnership not publicly traded for California income
8 tax purposes that have a financial interest in the applicant's
9 qualified motion picture. The information provided pursuant to
10 this clause shall be confidential and shall not be subject to public
11 disclosure.

12 (viii) The amount of qualified wages the applicant expects to
13 pay to qualified individuals.

14 (ix) The amount of tax credit the applicant computes the
15 qualified motion picture will receive, applying the applicable credit
16 percentages described in paragraph (4) of subdivision (a).

17 (x) A statement establishing that the tax credit described in this
18 section is a significant factor in the applicant's choice of location
19 for the qualified motion picture. The statement shall include
20 information about whether the qualified motion picture is at risk
21 of not being filmed or specify the jurisdiction or jurisdictions in
22 which the qualified motion picture will be located in the absence
23 of the tax credit. The statement shall be signed by an officer or
24 executive of the applicant.

25 (xi) Any other information deemed relevant by the California
26 Film Commission or the Franchise Tax Board.

27 (B) Establish criteria, consistent with the requirements of this
28 section, for allocating tax credits.

29 (C) Determine and designate applicants who meet the
30 requirements of this section.

31 (D) (i) For purposes of allocating the credit amounts subject to
32 the categories described in subdivision (i) in any fiscal year, the
33 California Film Commission shall do all of the following:

34 (ii) For each allocation date and for each category, list each
35 applicant from highest to lowest according to the jobs ratio as
36 computed by the California Film Commission.

37 (iii) Subject to the applicable credit percentage, allocate the
38 credit to each applicant according to the highest jobs ratio, working
39 down the list, until the credit amount is exhausted.

1 (iv) Pursuant to regulations adopted pursuant to subdivision (e),
2 the California Film Commission may increase the jobs ratio by up
3 to 25 percent if a qualified motion picture increases economic
4 activity in California according to criteria developed by the
5 California Film Commission that would include, but not be limited
6 to, such factors as, the amount of the production and postproduction
7 spending in California, the utilization of production facilities in
8 California, and other criteria measuring economic impact in
9 California as determined by the Film Commission.

10 (v) Notwithstanding any other provision, any television series,
11 relocating television series, or any new television series based on
12 a pilot for a new television series that has been approved and issued
13 a credit allocation by the California Film Commission under this
14 section, Section 17053.95, 17053.85, or 23685 shall be issued a
15 credit for each subsequent year, for the life of that television series
16 whenever credits are allocated within a fiscal year.

17 (E) Subject to the annual cap and the allocation credit amounts
18 based on categories described in subdivision (i), allocate an
19 aggregate amount of credits under this section and Section
20 17053.95, and allocate any carryover of unallocated credits from
21 prior years and the amount of any credits reduced pursuant to
22 paragraph (2) of subdivision (d).

23 (3) Certify tax credits allocated to qualified taxpayers.

24 (A) Establish a verification procedure for the amount of qualified
25 expenditures paid or incurred by the applicant, including, but not
26 limited to, updates to the information in subparagraph (A) of
27 paragraph (2) of subdivision (g).

28 (B) Establish audit requirements that must be satisfied before
29 a credit certificate may be issued by the California Film
30 Commission.

31 (C) (i) Establish a procedure for a qualified taxpayer to report
32 to the California Film Commission, prior to the issuance of a credit
33 certificate, the following information:

34 (I) If readily available, a list of the states, provinces, or other
35 jurisdictions in which any member of the applicant's combined
36 reporting group in the same business unit as the qualified taxpayer
37 that, in the preceding calendar year, has produced a qualified
38 motion picture intended for release in the United States market.
39 For purposes of this clause, "qualified motion picture" shall not

1 include any episodes of a television series that were complete or
2 in production prior to July 1, 2016.

3 (II) Whether a qualified motion picture described in subclause
4 (I) was awarded any financial incentive by the state, province, or
5 other jurisdiction that was predicated on the performance of
6 primary principal photography or postproduction in that location.

7 (ii) The California Film Commission may provide that the report
8 required by this subparagraph be filed in a single report provided
9 on a calendar year basis for those qualified taxpayers that receive
10 multiple credit certificates in a calendar year.

11 (D) Issue a credit certificate to a qualified taxpayer upon
12 completion of the qualified motion picture reflecting the credit
13 amount allocated after qualified expenditures have been verified
14 and the jobs ratio computed under this section. The amount of
15 credit shown in the credit certificate shall not exceed the amount
16 of credit allocated to that qualified taxpayer pursuant to this section.

17 (4) Obtain, when possible, the following information from
18 applicants that do not receive an allocation of credit:

19 (A) Whether the qualified motion picture that was the subject
20 of the application was completed.

21 (B) If completed, in which state or foreign jurisdiction was the
22 primary principal photography completed.

23 (C) Whether the applicant received any financial incentives
24 from the state or foreign jurisdiction to make the qualified motion
25 picture in that location.

26 (5) Provide the Legislative Analyst's Office, upon request, any
27 or all application materials or any other materials received from,
28 or submitted by, the applicants, in electronic format when available,
29 including, but not limited to, information provided pursuant to
30 clauses (i) to (xi) inclusive, of subparagraph (A) of paragraph (2).

31 (6) The information provided to the California Film Commission
32 pursuant to this section shall constitute confidential tax information
33 for purposes of Article 2 (commencing with Section 19542) of
34 Chapter 7 of Part 10.2.

35 (h) (1) The California Film Commission shall annually provide
36 the Legislative Analyst's Office, the Franchise Tax Board, and the
37 board with a list of qualified taxpayers and the tax credit amounts
38 allocated to each qualified taxpayer by the California Film
39 Commission. The list shall include the names and taxpayer
40 identification numbers, including taxpayer identification numbers

1 of each partner or shareholder, as applicable, of the qualified
2 taxpayer.

3 (2) (A) Notwithstanding paragraph (6) of subdivision (g), the
4 California Film Commission shall annually post on its Internet
5 Web site and make available for public release the following:

6 (i) A table which includes all of the following information: a
7 list of qualified taxpayers and the tax credit amounts allocated to
8 each qualified taxpayer by the California Film Commission, the
9 number of production days in California the qualified taxpayer
10 represented in its application would occur, the number of California
11 jobs that the qualified taxpayer represented in its application would
12 be directly created by the production, and the total amount of
13 qualified expenditures expected to be spent by the production.

14 (ii) A narrative staff summary describing the production of the
15 qualified taxpayer as well as background information regarding
16 the qualified taxpayer contained in the qualified taxpayer's
17 application for the credit.

18 (B) Nothing in this subdivision shall be construed to make the
19 information submitted by an applicant for a tax credit under this
20 section a public record.

21 (3) The California Film Commission shall provide each city
22 and county in California with an instructional guide that includes,
23 but is not limited to, a review of best practices for facilitating
24 motion picture production in local jurisdictions, resources on
25 hosting and encouraging motion picture production, and the
26 California Film Commissions' Model Film Ordinance. The
27 California Film Commission shall maintain on its Internet Web
28 site a list of initiatives by locality that encourage motion picture
29 production in regions across the state. The list shall be distributed
30 to each approved applicant for the program to highlight local
31 jurisdictions that offer incentives to facilitate film production.

32 (i) (1) (A) The aggregate amount of credits that may be
33 allocated for a fiscal year pursuant to this section and Section
34 17053.95 is the applicable amount described in the following, plus
35 any amount described in subparagraph (B), (C), or (D):

36 (i) Two hundred thirty million dollars (\$230,000,000) in credits
37 for the 2015–16 fiscal year.

38 (ii) Three hundred thirty million dollars (\$330,000,000) in
39 credits for the 2016–17 fiscal year and each fiscal year thereafter,
40 through and including the ~~2019–20~~ 2020–21 fiscal year.

1 (B) The unused allocation credit amount, if any, for the
2 preceding fiscal year.

3 (C) The amount of previously allocated credits not certified.

4 (D) The amount of any credits reduced pursuant to paragraph
5 (2) of subdivision (d).

6 (2) (A) Notwithstanding the foregoing, the California Film
7 Commission shall allocate the credit amounts subject to the
8 following categories:

9 (i) Independent films shall be allocated 5 percent of the amount
10 specified in paragraph (1).

11 (ii) Features shall be allocated 35 percent of the amount specified
12 in paragraph (1).

13 (iii) A relocating television series shall be allocated 20 percent
14 of the amount specified in paragraph (1).

15 (iv) A new television series, pilots for a new television series,
16 movies of the week, miniseries, and recurring television series
17 shall be allocated 40 percent of the amount specified in paragraph
18 (1).

19 (B) Within 60 days after the allocation period, any unused
20 amount within a category or categories shall be first reallocated
21 to the category described in clause (iv) of subparagraph (A) and,
22 if any unused amount remains, reallocated to another category or
23 categories with a higher demand as determined by the California
24 Film Commission.

25 (C) Notwithstanding the foregoing, the California Film
26 Commission may increase or decrease an allocation amount in
27 subparagraph (A) by 5 percent, if necessary, due to the jobs ratio,
28 the number of applications, or the allocation credit amounts
29 available by category compared to demand.

30 (D) With respect to a relocating television series issued a credit
31 in a subsequent year pursuant to clause (v) of subparagraph (D)
32 of paragraph (2) of subdivision (g), that subsequent credit amount
33 shall be allowed from the allocation amount described in clause
34 (iv) of subparagraph (A).

35 (3) Any act that reduces the amount that may be allocated
36 pursuant to paragraph (1) constitutes a change in state taxes for
37 the purpose of increasing revenues within the meaning of Section
38 3 of Article XIII A of the California Constitution and may be
39 passed by not less than two-thirds of all Members elected to each
40 of the two houses of the Legislature.

1 (j) The California Film Commission shall have the authority to
2 allocate tax credits in accordance with this section and in
3 accordance with any regulations prescribed pursuant to subdivision
4 (e) upon adoption.

5 *SEC. 3. This act provides for a tax levy within the meaning of*
6 *Article IV of the Constitution and shall go into immediate effect.*